

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Seventy-Sixth Session
May 16, 2011**

The Committee on Judiciary was called to order by Chairman William C. Horne at 9:15 a.m. on Monday, May 16, 2011, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman William C. Horne, Chairman
Assemblyman James Ohrenschall, Vice Chairman
Assemblyman Steven Brooks
Assemblyman Richard Carrillo
Assemblyman Richard (Skip) Daly
Assemblywoman Olivia Diaz
Assemblywoman Marilyn Dondero Loop
Assemblyman Jason Frierson
Assemblyman Scott Hammond
Assemblyman Ira Hansen
Assemblyman Kelly Kite
Assemblyman Richard McArthur
Assemblyman Tick Segerblom
Assemblyman Mark Sherwood

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Mark Manendo, Clark County Senatorial District No. 7

Minutes ID: 1224

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STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Nick Anthony, Committee Counsel
Jeffrey Eck, Committee Secretary
Michael Smith, Committee Assistant

OTHERS PRESENT:

George Flint, representing Chapel of the Bells Wedding Chapel, Reno; and
the Reno Wedding Chapel Alliance
Margaret Flint, representing Chapel of the Bells Wedding Chapel, Reno;
and the Reno Wedding Chapel Alliance
George Cotton, Shalimar Wedding Chapel, Las Vegas
Kathleen Marino, representing the Arch of Reno Wedding Chapel, Reno
Jim Pierce, Assistant County Clerk, Clark County
Nancy Parent, Chief Deputy Clerk, Washoe County
Alan Glover, Clerk/Recorder, Carson City
Wes Henderson, Deputy Director, Nevada Association of Counties
Bjorn Selinder, Consultant, representing Churchill, Eureka, and
Elko Counties
Brett Kandt, Special Deputy Attorney General, Office of the Attorney
General
Rebecca Gasca, Legislative and Policy Director, American Civil Liberties
Union of Nevada
Keith Munro, Assistant Attorney General, Office of the Attorney General
Nancy Hart, representing the Nevada Network Against Domestic Violence

Chairman Horne:

[The meeting was called to order. Roll was called.]

We have a quorum. Everyone is here. Good morning, everyone. Welcome to the Assembly Judiciary Committee. Today, we have one bill to be heard. It is Senate Bill 381 (1st Reprint). After that, we have a work session. There are a total of 15 bills on that. For those of you who are here, we will not be hearing Senate Bill 24 (1st Reprint), Senate Bill 42 (1st Reprint), Senate Bill 47, and Senate Bill 91 as of now. We will try to get through the rest of them this morning. We have a floor session scheduled for noon.

Let us open the hearing on Senate Bill 381 (1st Reprint).

Senate Bill 381 (1st Reprint): Revises provisions concerning the issuance of marriage licenses. (BDR 11-227)

George Flint, representing Chapel of the Bells Wedding Chapel; and the Reno Wedding Chapel Alliance:

The Chairman told me I could take 90 seconds and talk outside the bill. I thank you for that, sir.

Tomorrow represents a special day in my life, for tomorrow is the end of my 49th year in the wedding business in Nevada. During those 49 years, the Nevada statutes on marriage have been rewritten almost from A to Z. For those 49 years, I have been the eyes and ears of the wedding industry in this state at this Legislature. I am somewhat beyond even humbled by the opportunity that I have enjoyed during that nearly 50 years. This has been a wonderful experience for me. It has been two-thirds of my life, and I go back all the way to Warren "Snowy" Monroe in the Senate and to Clint Wooster as Chairman of these two bodies in the Assembly.

I began my first formal appearance before this Committee in 1967, when this body passed and sent to the floor a bill that would have disallowed a minister to perform a marriage if he owned the wedding chapel. I dropped the ball. I would never have allowed myself not to become part of that consideration. I headed for Carson City the minute I read that in the newspaper and went to the Chairman. Thankfully, he called the Committee back to order. I explained the problem with that, and all my life I will be so appreciative of the fact that a lady named Flora Dungan, a Democrat from Clark County, who is now deceased, asked Chairman Wooster whether he would entertain a motion to rescind that action by the Committee and indefinitely postpone the bill. That day I realized that George Flint had better get involved in this process even more than he had been. Now, nearly a half century later, I stand in awe at you and your dedication.

Like many of you, I bought this book last week. I sat at home yesterday afternoon and said to myself, "I want to write one paragraph to express my deep appreciation and actual love for this process and for the body that has allowed me to be in business all these years." The gentleman who wrote this book for Senator Raggio, Michael Archer, talks about that in his research for the book. Senator Raggio says, "This process, along with my continued work at the Legislature each session taught me that the majority of the legislators from both political parties are decent, hard-working individuals deserving the public trust. Yet, despite this, they often are unappreciated and are occasionally insulted for the sacrifices they make in time away from their families and their livelihoods in order to work for the people."

In referring to the period of time when the Senate met for 2 1/2 hours in special session to rescind the large pension increase, Senator Raggio goes on to say that it is so sad that our legislators are "lost amid the resentment over the pension increase—a large increase—and the fact that given the amount of time and effort you as individual legislators contribute to the state, running Nevada's part-time Legislature, you are woefully underappreciated and woefully underpaid.

Mr. Chairman, thank you for allowing me to express some personal sentiments. I will be 79 during the next session, and I plan to be back, but in case I am not, at least I had the opportunity to share these thoughts with you today.

We are here today to address S.B. 381 (R1), which has already passed the Senate. It was originally introduced by Senator Manendo, who is to my left. I would appreciate it if the Senator would allow himself the opportunity to address you.

Senator Mark Manendo, Clark County Senatorial District No. 7:

I just passed a message to Assemblyman Ohrenschall that he is needed in Government Affairs, so we are switching and doing work session. I will stay as long as I can, but I might have to leave to get back downstairs. I appreciate the Committee's patience with our friend, George Flint. He is talking about the 1989 session. I remember those days. It is nice to have some people that have a little historic knowledge of this building, because the new people coming up need to hear these stories.

I appreciate you, Mr. Chairman, and the Committee hearing this bill. We have been working on this for a long time. I hear from people that government needs to work hand-in-hand with business. We need to be more proactive. We need to look at ways to lift the burden off government. We need to make things easier for people and for business to be able to do its jobs so we can stay in business and flourish. This is an industry that has had some hard times, like many. This concept is not really new. We have gone down this road. You go get a hunting or fishing license. You can go to certain businesses and you can obtain one. We have never frowned on things like that. We have had a public-private partnership. This is just another area where we can do that. I could go into a whole litany of things. I will not do that, because I know you want to hear the bill and the experts. I know Ms. Flint will do a great job with that.

I really believe that government needs to work with businesses. We need to make it more consumer-friendly and more business-friendly. That is something I have advocated since I entered this building 16 years ago. I think this is just

another avenue where we can do that. I think elected government officials who fear going down this road I do not want to say they are closed-minded, but they are so territorial. I understand they want to protect their jobs and what they do for the people, but I think that this bill is pretty well-crafted. I know that there are some people who say we should maybe open it up to everybody. There was a thought process behind this and checks and balances. The bill involves people who have been in the business for five years. They have been around; we know them. The business side of it knows them; the community knows them. But, it is obviously up to this Committee. If it feels that it should open up to anybody, we were just a little bit concerned that if someone were to just open up a business tomorrow and then want to do this, we do not know whether the business is going to be reputable or not. That is something for this Committee to decide. I am open to the wisdom of the Chairman and this Committee and whichever direction they want to go with that. I am really passionate about this, because we have been working on this issue for a long time. I appreciate your consideration and your passage of this bill. Thank you.

Chairman Horne:

Thank you, Senator Manendo. Ms. Flint, do you have comments?

George Flint:

Thank you again, Mr. Chairman. My daughter will walk you through the bill, but before she does, for the nine members who are new to this Committee, I think it is only fair for me to share with you a bit of history.

Chairman Horne:

A very small bit.

George Flint:

Thank you, Chairman. This is the third time this Committee has heard this bill. If you pass it out, it will be the third time. It will be the third time, if passed by the floor, that it has been passed by the whole body. It has passed out of the Senate Committee twice. The first time, Senator Raggio, as a favor to one of the opponents, put it on a desk and let it die. The second time, on assurance from the county that there would be no deviation of hours, we had Senator Washington take that portion of the bill out which allowed us to issue licenses. It was because of that choice that the bill passed.

My intention was not to in any way bring this back to you for a third time and have it be an exercise in futility; and, as a result, we began with the Senator's blessing in the other House. I am proud of the fact that we had only one nay vote in committee in the other House, and that the bill passed by a 15 to 6 margin. I am even more proud of the fact that one of the nay voters came to

me and said, "Mr. Flint, I voted wrong. If I had the chance, I would have revoted." I replied, "It did not kill the bill, thankfully. What is unique is that I watched the vote that time. There would have been three more green lights if you had voted green because two were following your lead. It would have been 18 to 3."

That being said, here we are again. This time it does not have to be an exercise in futility on your part because of the fact that it has already cleared the Senate. I have been told by his aides that the Governor is watching the bill, and he certainly does not want it loaded up with a lot of amendments, including fiscal aspects; and there does not need to be any. Thank you again, Mr. Chairman. I will turn it over to my daughter.

Margaret Flint, representing Chapel of the Bells Wedding Chapel; and the Reno Wedding Chapel Alliance:

The Reno Wedding Chapel Alliance consists of Arch of Reno Wedding Chapel, Silver Bells Wedding Chapel, Agape Love Wedding Chapel, and Antique Angel Wedding Chapel. We bring for your consideration today S.B. 381 (R1). There is a lot of history behind this bill—a lot more than we can cover in a short time. I want to talk about the fact that we tried to keep this bill as simple as possible.

I will go through this language with you. However, I want you to keep in mind that there are several areas in this bill that we felt we could deal with on the county level. We were trying to keep in mind that this gives the boards of county commissioners the opportunity to work with us and the industry to implement this program. This does not need to be an expensive program. There does not need to be a fiscal note on this program. We do not need \$162,000 from the clerk's office to implement this program. There are already available hand-written marriage licenses, which are the same format that they are already using in Humboldt County. This has been happening in Humboldt County since before 1993 under a different statute. There are only five remaining independently owned wedding chapels in Washoe County. This little program can be very easily implemented without a lot of fiscal impact.

Section 2 of the bill talks about the commercial wedding chapel as being "a permanently affixed structure which operates a business principally for the performance of weddings and which is licensed for that purpose." That language came out of Assembly Bill No. 262 of the 75th Session.

Section 8.5 reads, "In each county whose population is less than 700,000 . . .," so this omits Clark County. We did not want to include Clark County in this because we do not think it would be feasible to include Clark County at this point. Clark County is still issuing 92,000 marriage

licenses annually. There are over 100 wedding chapels in Clark County. Maybe down the road this might be something to look at, but now, no. It would not be feasible to approach this in Clark County.

Assembly Bill No. 2 of the 26th Special Session allowed the Board of County Commissioners to revisit the statutory hours, which by law have been 8 a.m. until midnight in the two largest counties—Clark and Washoe—for nearly 40 years. When they revisited those hours, the Commissioners came forth with a deviation of hours for the Marriage License Bureau in Washoe County, which became very damaging to those of us in private business. We are unique as an industry, as we are completely dependent on the availability of that office for our ability to do business. The Marriage License Bureau closes down on days that are very lucrative for us or only operates six to ten hours on Family Day—the day after Thanksgiving—which we have no clue is even a county-observed holiday because we do not operate on county time. We operate on tourist time.

This bill would allow us to work with the Washoe County Commission to establish a program that would allow us to issue marriage licenses in the chapels only when the county office is not open. The language that would provide for the establishment of a program whereby a commercial wedding chapel that has been in business in the county for five years or more was proposed after a meeting that Kathy Marino of Arch of Reno Wedding Chapel and I had with the Washoe County Clerk and her staff on January 20, 2011. The County Clerk expressed to us that she had concerns that people could just come in, open up a wedding chapel, get a business license, and she would have to allow them to issue marriage licenses. That language was proposed to show that these businesses are established and reputable, and not flakey or transient. That was put in there for a purpose.

Except as otherwise established pursuant to paragraph (b), a program must authorize each commercial wedding chapel that has been in business in the county for five years or more to begin issuing marriage licenses upon filing with the county clerk a completed registration form prescribed by the board of county commissioners, along with a performance bond in the amount of \$50,000. That means our businesses have to take out a bond of faithful performance. Also, subsection 3 of section 8.5 reads, “A commercial wedding chapel shall refer any applicant for a marriage license that includes the signature for a guardian of a minor” So, in the case of where you have a minor, which, according to Nevada state law is a person under the age of 18 but over the age of 16, and there are guardianship papers involved, we would not issue a marriage license. We would refer those individuals directly to the county clerk’s office.

Section 4 reads, "The county clerk of the county in which a commercial wedding chapel that issues marriage licenses pursuant to this section is located, shall provide to the commercial wedding chapel, without charge, any materials necessary. . . ." We are not talking about computer equipment, laser printers, or a \$1,500 cash drawer. We are talking about paper materials and already existing handwritten marriage licenses, which the county clerk's office uses when the power goes out or when their computers go down and they have to go over to the office on Center Street. They handwrite marriage licenses. We are perfectly capable of handwriting these marriage licenses.

According to the bill, other than working out the program with the board of county commissioners, the only contact we would have directly with the clerk's office would be that we would have to file any hard copy licenses and the associated paperwork directly with the clerk's office every day. We would also have to work out a program for the collection of the fees. There are very simple ways to get around doing this without making this entire bill very complicated. We are not talking about beginning electronically right off the bat with this office. If the board of county commissioners finds out down the road that it wants to include us electronically, then we can work those details out with the board of county commissioners.

There are also misdemeanor offenses involved in the bill, if we issue licenses not in accordance with law. We have tried to cover all of the little aspects that we think we should at this point. I think we can work with the board of county commissioners to get this implemented and make it work for us, the county, and the state overall.

I would like to talk about my exhibit a little bit ([Exhibit C](#)). You should have that in front of you. It is also on the Nevada Electronic Legislative Information System (NELIS). It has a wonderful picture of a vintage postcard. If you look up in the left corner, you will see the little Cupid with the bells. This is one of those things from which Nevada has prospered for years. This is one of our tourist draws. I decided to start my exhibit with the numbers.

When you go to section A, we have some Reno-Sparks Convention and Visitors Authority (RSCVA) statistics. These stats are from 2007, but they are the most current stats that I have been able to get my hands on. I highlighted for you the section of the graph that shows 11 percent of our tourist base is based on weddings and anniversaries in northern Nevada. The next page of that exhibit shows per capita spending. I am going to crunch some numbers with you real quick so that you get an idea of the revenue that this creates for northern Nevada. The five independent wedding chapels have gotten together, and we have crunched our numbers to come up with an estimate that the average

tourist wedding for our little chapels brings about ten people with them. Seventy-five percent of the marriage license issuance is tourist weddings. It used to be much higher. If you take 10,000 marriage licenses and you figure 75 percent of those are tourist weddings, and you crunch those numbers with per capita spending at \$1,000, you can easily estimate that these numbers create in the area of \$70,000,000 annually into northern Nevada. This is a significant chunk of money, and I do not think that right now, with our economic state, that we can afford to ignore these numbers.

Section B provides more history on the subject. Very shortly before the 2009 Session, my father and I were invited to the Washoe County Clerk's Office to entertain this idea. She knew that we were in trouble, and she knew that we needed to look for some avenues where we could save her budget some money. This letter (in [Exhibit C](#)) came out of her office when she wanted to sit down and talk with us, and we did. We went through the whole ordeal. We had this worked out in Assembly Bill No. 262 of the 75th Session with all the technical procedures and everything. During that session, the County Clerk pulled back her offer. We have continued to try. These are just letters and such that we have exchanged back and forth and that asked us to please omit that part of the bill because they have been able to find the funds. They will not be looking at a deviation of hours anymore, et cetera.

Section C is some testimony provided by Nancy Parent, Chief Deputy Clerk for Washoe County on April 27, 2009 during the special session to the Senate Judiciary Committee. These are the hours that they recommended after the special session that we deviate to. I think it is really important to take some things into consideration, because this is a tourist-related business. These hours came into effect on June 28, 2010, at the very beginning of our big tourism season (see [Exhibit C](#)). They started closing down at 8 p.m. when it is still light outside and 80 or 90 degrees. People are out and about. That is the time of the evening people like. During the holidays and on Sundays, they were open from 10 a.m. to 6 p.m. Valentine's Day is still 8 a.m. to midnight, as is New Year's Eve Day. With county-observed holidays—and I realize that they are up-front in telling us about the county-observed holidays, but we do not know what county-observed holidays are because, you know what? These are times when tourists come to Reno. These are three- and four-day weekends, and they expect Reno to be open when they get here. On Christmas and Thanksgiving, they were closed completely. We had three weddings walk through our door on Thanksgiving Day around noon. They decided to drive to Las Vegas because it was only an eight-hour drive. They would get there at 8 p.m., get married before midnight, spend the night, and still travel home the next day. There are northern Nevada dollars that are

trickling down to the south, which would probably make some of you even happier.

I had a call last Tuesday night at 7:30 p.m. A couple wanted to drive in from Sacramento, California and get married that night, but the clerk's office closed at 8 p.m. There was absolutely nothing that I could do to help them to come to Reno and get married that night.

On the Lake Tahoe side, which is maybe an hour's drive from Reno and in California, you can now buy a marriage license in the chapel 24/7. There is no blood test; there is no waiting period. I have enclosed on page 13 (of [Exhibit C](#)) what California requires. Both parties must be 18 years or older, present, and have a valid picture identification. That is basically it. You can ring the buzzer at the Chapel of the Bells and be married 24/7.

Yes, there is a little bit of a decline, and in Washoe County there is a huge decline. We are at the all-time low, I believe, since 1937. I have Centers for Disease Control (CDC) numbers that show marriage decline. I have an article from Channel 2 News in Reno from September 2010 that states, "In America, marriages fell to a record low in 2009, with just 52 percent of adults 18 and over saying they were joined in wedlock, compared to 57 percent in 2000. That is 5 percent in that nine-year period. I am here today to tell you Washoe County is down over 60 percent for that same time frame. The CDC numbers basically indicate the same. I have a CDC chart that I would be happy to show you which indicates that there is a decline, but it is a little decline. In fact, I have another chart of CDC numbers that indicate that the entire nation is only down 5 percent. Nevada's little piece of that is only about 14 percent, so there is quite a difference between that and the 60 percent that Washoe County is down.

Let us talk a little about other licensing. I realize that getting married is a little different than buying a hunting or fishing license, but this is all the same information, other than the parents' names, which we get already, because that information is part of the license itself. One of the biggest arguments against this has been the handling of people's private information, such as their Social Security numbers. An application for a hunting and fishing license through the Department of Wildlife requires a Social Security number. Guess where you can buy these? I only printed out Washoe, Nye and Pershing Counties, but you can buy these licenses at over 150 places in the state such as Scolari's, Longs, Wal-Mart, Raley's, and Kmart, where personal information is required. There are all kinds of places. These people handle all of the same personal information.

We have tried to work with the county, apart from my meeting with Mrs. Harvey in January. Senator Manendo and I sent out two different emails, requesting that she sit down and work with us, even if she could not make a daytime meeting. Senator Manendo was flexible enough to try to meet with her in the evening. She has declined to sit down and talk with us.

I think that this is such a workable thing. We have to get together as government and business. These are the toughest economic times of my lifetime, and we cannot continue to be afraid of changes or to try something new because this obviously is not working for us anymore. The status quo is no longer working in these tough economic times. It is not working for business, government, or tourism. If you have any questions, I will be happy to address those for you.

Chairman Horne:

Thank you, Ms. Flint.

George Flint:

Mr. Chairman, may I sum up my comments now?

Chairman Horne:

Sum? There is a sum? Mr. Flint, we are 45 minutes into this. I think we got it.

George Flint:

I just want to read one paragraph from the Reno newspaper.

Chairman Horne:

How long is the paragraph?

George Flint:

It is very short. This is a comment from Chairman of the Washoe County Board of Commissioners, John Breternitz, discussing the present economic problems. The Chairman says, "If Washoe County doesn't change the way it does business, it will be \$200,000,000 under water in four years. To me, that is a call to action. It sets the theme. Let's try doing some things differently." Thank you, Mr. Chairman.

Chairman Horne:

Thank you, Mr. Flint. Senator Manendo, do you have any final remarks before you have to leave?

Senator Manendo:

No, thank you. I appreciate it.

Chairman Horne:

I see no questions. I will first go down south. Who is down south wishing to testify in favor of S.B. 381 (R1)? Is there a George Cotton?

George Cotton, Shalimar Wedding Chapel, Las Vegas:

I am a retiree of county and state government. I worked for Clark County and the State of Nevada for almost 30 years. I have done weddings in Washoe County. I am a native of Reno, so I am somewhat aware of the unique situation there.

I support the bill as it relates to northern Nevada. We are very comfortable with our situation here in Clark County, with our county clerk, and the effort they have made to make it very easy for us to do our business here. Their hours are great. They have automated facilities to get licenses issued, and we have no issues with the clerk's office here, as far as their working with us and the rest of the chapel industry.

You will see that we have not asked to be included in this bill, but I do know that in Washoe County and northern Nevada, because of the unique nature and because the clerk's office is not open at all times, it creates certain problems for chapel owners to be able to do their jobs. I think that they can certainly issue licenses in the chapels without it being a problem for the U.S. Department of Homeland Security or for anyone concerned about licenses being issued to folks who should not get them. I know when the clerk's office was closed when I lived in Reno, we would have to put people in the car and drive them to Carson City to get a license to marry them in Washoe County. It is not a new thing. I have been here in Clark County since 1984.

I would like to support the bill. If, at some point in time, the Clark County Board of Commissioners chooses to start cutting hours or to otherwise affect things in our industry, then at that point it might be at least a pilot program we could look at to see what would and would not work. We probably would be more inclined to try to help fund the clerk's office so it could stay open and keep issuing licenses there, rather than trying to do it ourselves. It is a pretty unwieldy thing down here because we have so many licenses issued and people wanting to marry.

I would like to answer any questions you may have for me. We do support the bill for northern Nevada, but we are not interested in having it here in Clark County.

Chairman Horne:

Thank you, Mr. Cotton. Are there any questions for Mr. Cotton? I see none. Let us move up north. Anybody wishing to testify in favor of S.B. 381 (R1), please come forward. There are three seats.

Kathleen Marino, representing the Arch of Reno Wedding Chapel, Reno:

I want to make it known that I am in support of this bill. I think it is very important for the survival of our industry. I see that the future brings a lot more cuts to the hours, and I think this is a viable solution for everybody. It gives the county the flexibility to change their hours some, it gives us the opportunity to still perform marriages, and the county clerks will be making money while they are not even open. This is done successfully in California and Hawaii, so I know it can be done successfully in Nevada.

We are reputable people. I am a graduate of the University of Nevada, Reno. I have a retired air traffic controller working for me. I have a couple of legal secretaries. I have a great staff, and I think our reputation seems to be affected in this whole thing. I think it is important to understand that we are capable, and we have employees that are capable, of doing this. My feeling about the worries about whether we might take a fake ID is that the county is supposed to train us to recognize fake IDs. We are perfectly capable of handling this, and I hope you would please consider passing this bill. Thank you.

Chairman Horne:

Thank you, Ms. Marino. I have a couple of questions. Mr. Hansen.

Assemblyman Hansen:

Thank you, Mr. Chairman. I attended a roundtable discussion with all the county clerks. The immigration people were there, along with the Washoe County Sheriff's Office. The concern they brought up, as you mentioned, was the fake ID issue and whether or not you may be marrying illegals. Does the bonding requirement in this cover that, if you actually do marry somebody who uses a fake ID or somebody who is illegally in the country? Can you then file against the bond? How does that work with this bill?

Kathleen Marino:

I do not know that. Margaret Flint might be able to answer that, but I will say that there is no requirement in this state that a person be in this country legally to get a marriage license. That is all up to the future immigration people to handle that, not at the marriage license level. The only requirement is that applicants are over 18 and have proper identification.

Assemblyman Hansen:

As I recall, it has to be a photo ID in Nevada. Is that correct?

Kathleen Marino:

No, that is not true. Margaret can explain that to you.

Margaret Flint:

Thank you for letting me address this. Assemblyman Hansen, as far as the bonding goes, I believe it is a \$50,000 performance bond. We might want to have the Legal Division address that to be sure that does cover that type of liability. I am really glad that you brought up the ID issue again, because I meant to talk about that a little bit.

Traditionally, in this body, you do not talk about the opposition until they have already testified. However, with NELIS as a form of disclosure, you have the opportunity to see what is going to be approached.

Chairman Horne:

Let me stop you, Ms. Flint. This bill has nothing to do with IDs. We have heard that already. Let us not get off into the weeds on the bill.

Margaret Flint:

That is fine. I was just trying to address a concern that Mr. Hansen had brought up.

Chairman Horne:

I understand, but that is not what this is about.

Assemblyman Hansen:

Thank you.

Chairman Horne:

Mr. Sherwood.

Assemblyman Sherwood:

Thank you, Mr. Chairman. I have a question about Section 8.5(1)(b).

Chairman Horne:

Go ahead.

Assemblyman Sherwood:

The wedding chapel has to have been in business for five years, and it has to be a free-standing building. It cannot be mobile weddings; I understand that. Casinos also do weddings. Every large casino in Reno, it seems, has its own wedding facility. Are you comfortable with the notion that, if we enact this, this is good for stand-alone weddings, and casinos would also be able to do this?

Margaret Flint:

We do not have an issue with that. The reason we went with that language originally was because the larger casinos in Washoe County that have wedding chapels do not generally cater to the same clientele that we do. There is nothing that prohibits them in this bill from actually bringing a client to us if they have a client who wants to get married in the late hours of the evening, we would still be able to issue licenses to those people as well. If you want to expand into that, we do not have any opposition.

Assemblyman Sherwood:

Thank you.

Chairman Horne:

Are there any other questions? I see none. Thank you very much. Is there anyone else here wishing to testify in favor of S.B. 381 (R1)? Seeing none, we will move to the opposition. We will go back down south to Jim Pierce.

Jim Pierce, Assistant County Clerk, Clark County:

To state it simply, I understand that this is designed to focus on the smaller counties, but from our standpoint, we are very concerned about the laws and how they impact the identification of the people getting married. That is important. We hear people comparing this to hunting and fishing licenses. Well, you cannot use a hunting or fishing license to change your name. This license and the certificate that comes after that can be used with the Social Security Office and with departments of motor vehicles across the nation to change somebody's last name. That is important from the standpoint of national security.

Beyond that, I think it is important to understand the checks and balances here. The law requires us to make sure that the ages are proper and that they are who they say they are. We do not care where they are from, as was stated earlier, but it is important we verify their identities. It is getting more difficult with all the different forms of ID. It is a challenge every day. We find people coming in with invalid ID or no ID. In those cases, it is easy for us to work with them and tell them, no, they have to bring back something that really proves to

us who they are. If it is a chapel doing that, the risk is that the chapel will say, "Well, we believe you are who you say you are, and we will proceed with this because we stand to make money here." Honestly, most of the chapels are not going to do that. We have a lot of excellent chapels. I do not know about the ones up north. They sound like they are very good at what they do. I know that we have excellent chapels down here. It is a huge industry for us.

When I talk about the importance of the ID, it gives credibility to the State of Nevada and what this license and certificate means to the couple and to the government entities that are counting on this information to be accurate. That is key thing that I want to point out.

[Chairman Horne left the Chair, and Assemblyman Frierson assumed the Chair.]

I would like to point out *Nevada Revised Statutes* (NRS) 122.061. To the best of my knowledge, nobody has done anything with that law this year. Basically, it forces everybody to go back to an 8 a.m. to 12 a.m., 365-day a year schedule for issuing marriage licenses. With that in place, I do not understand what the benefit of this bill would be, because this is an "either-or" situation. I will take any questions. Thank you.

Assemblyman Frierson:

Thank you, sir. Do we have any questions for Mr. Pierce? Mr. Sherwood.

Assemblyman Sherwood:

Thank you. Mr. Pierce, the difference between Clark County and northern Nevada, just logistically, is huge. Having my father remarry in Clark County was great. You could get married practically anywhere. Up here, those locations are scattered all over the place. Logistics is one reason, so from the standpoint of actually issuing these licenses, is that something that you would consider in your opposition to this? Have you been up here? Do you know the distances between the different places—to go from here to there and wait for things to open? It is not the Strip. National security aside and just actually getting it done, have you seen the process up here?

Jim Pierce:

I have not been to Washoe County for a very long time, but I will say once again that if NRS 122.061 stays intact, even Washoe County will be required to stay open from 8 a.m. to 12 a.m.

Assemblyman Frierson:

Are there any other questions for Mr. Pierce? Ms. Diaz.

Assemblywoman Diaz:

Mr. Pierce, I heard in Mr. Cotton's testimony that there is an automated way to get a marriage license in Clark County. Is that correct?

Jim Pierce:

There is not an automated way.

Assemblywoman Diaz:

I thought I heard that.

Jim Pierce:

Oh, yes. Via the Web, we have what we call a "preapplication." It allows a couple going to get married to fill out all the information in advance and come to our office. I believe Washoe County has this as well. With that preapplication, it speeds up our process tremendously. It has helped a great deal over the last few years with all the cost cutting and reduction of staff that has been going on, but we still require that a couple come into the office and show their ID or prove who they are and that they are of age. They then have to sign an affidavit that says the information is correct. They still have to come into the office; it just speeds up the process, reduces their time in our office, and takes a load of typing off of us as well.

Assemblywoman Diaz:

I appreciate you clarifying that. Thank you.

Assemblyman Frierson:

Are there any other questions for Mr. Pierce? I see none. Is there anyone else in Clark County in opposition? It looks like Mr. Pierce is by himself down there. Let us move back up to Carson City. Is there anyone in Carson City in opposition to S.B. 381 (R1)? Please proceed.

Nancy Parent, Chief Deputy Clerk, Washoe County:

We are here in opposition to S.B. 381 (R1) today. We filed a letter ([Exhibit D](#)) last Friday on NELIS. I will go through some of the points that are in the letter and maybe address some of the testimony that you heard this morning.

As for the hours of operation, we have been open from 8:00 a.m. until midnight historically for I am not sure how many years. There has been a steady decline, regardless of when we are open. It really does not have anything to do with our hours.

The first attachment to our letter (page 5 of [Exhibit D](#)) is a chart that shows the steady decline from 1980 to 2010. It is interesting to note that the Flints

brought up that we deviated from our hours last year as a result of Assembly Bill No. 2 of the 26th Special Session. The decline of licenses in 2008 and 2009 was 13.8 and 12.3 percent, respectively. Last year, even though we reduced our hours, we only declined 6.7 percent. When we talk about the reduction in hours, we reduced 24 hours a week. Basically, all we cut out was 8 p.m. to midnight, Monday through Thursday, and then from 6 p.m. to midnight on Sundays. We closed on Thanksgiving; and we tried to close on Christmas, but at the request of the chapels, the county commissioners asked us to reopen. We were open. I worked that day, along with the Marriage Bureau Supervisor. We issued six licenses in a four-hour period. One of the six was not going to get married until January 1, or 1-1-11. So, five of those resulted in weddings that day. We do not think that, regardless of what hours we are open or who issues the license, it is going to help the marriage business in our county. We think it is a bad idea overall.

There have been a lot of reasons why license sales have gone down. It is not just Washoe County. Other states now have gaming, so we are not the prime place to go for that. Society accepts couples living together outside of marriage. California loosened its requirements regarding a waiting period and a blood test. I know that Ms. Flint brought up some quotes about the stats across the country. It is not unique to us. In fact, according to a Bloomberg Businessweek report, in 2008, 26 percent of people in their twenties were married, as compared to 68 percent in the 1960s. We do not think, even if we are open, which we will be required to be as of July 1, we will change the trend. We do not think allowing chapels to issue licenses will change it, either.

As to the 24/7 wedding chapel at South Lake Tahoe that the Flints mentioned, they issue that under what is called a limited notary public power. They are authorized to issue what is called a confidential license in California. What a confidential license means is that no one besides the couple can get a copy of it, so it is a completely different animal, and it is not necessarily the best thing for the couple.

Another point that we made in our opposition was the idea that the chapel had to have been in business for five years and that the business had to be principally for the performance of weddings. I appreciate what the Flints are saying, that they were trying to pick responsible, active businesses. I think that in this current climate if someone wanted to start a new business and issue licenses, that would stifle that. Also, it says “. . . business principally for the performance of marriage” In our view, that would not allow us to authorize anyone in a casino to be a marriage licensing agent. So, it does limit free trade.

As to the definition of a "commercial wedding chapel," they say that it has been licensed for that purpose. We do not know of any place that licenses wedding chapels. They get business licenses. In Reno, at least, they are categorized as general business licenses. Nothing specifies how they operate or do business. It is interesting. I was noticing the other day when I was at my salon that the gal had her business license on the wall. She had her cosmetology license from the Cosmetology Board, and she had her business license. Her business from the City of Reno also said "general." There is nothing that would tie it down to being a commercial wedding license. Also, there is nothing that says that they have to be incorporated or do business under the laws of this state or file a fictitious firm name, so you would not have the ability to know who you are doing business with as the wedding chapel itself.

They have testified a lot, and we have, too, in past hearings that marriage certificates are important legal documents. It is very different from a hunting or fishing license. Yes, they all apparently contain the Social Security numbers. Our documents also have parents' names and places of birth. Our document changes legal rights with regard to property, support, children, benefits, and immigration status. Our documents are used by the Department of Motor Vehicles (DMV) and other government entities not only in this state, but across the country and around the world. If the information is not correct or it is not all collected, then government entities will not be able to rely on our documents.

We have run into incidents. It is the simplest little thing. If a person's identification that is shown has the name one way and some other document has it only slightly different and the two documents do not mesh, then the DMV will not accept the documents and will not issue a license in the new name.

Identity theft and marriage fraud are two of the fastest-growing and most difficult crimes in our country. Homeland Security has visited our office. We do not care if licensees are here legally or not, but we need to make sure they are who they say they are. We had an incident a couple of years ago where a gentleman came in. He had a homemade document on a piece of copy paper. He said it was an official ID from his country. I had never seen it before. He said that the Homeland Security officials had taken his actual identification, and he had some other legal papers and asked me to call his lawyer. I called his lawyer, but did not get any better information. The gentleman was sitting in my office as we were trying to find a way to issue a marriage license, because that is what we do. He said, "Oh, I have a passport." I said, "Why did you not give me that before, because that is all I need?" He handed me his passport, which had a completely different name. He said, "Well, I am working undercover. I am a government agent, and this is just another ID that they gave me." Lo and behold, there were some U.S. Immigration and Customs Enforcement (ICE)

agents standing in line to the district court, and we asked them to come in and help with the situation. Come to find out, the man had paid the young lady he was with \$10,000 to marry him. They arrested him on the spot. I do not know who he really was, but he was very definitely passing off fraudulent identification.

It is not that we are trying to catch people doing that, it is just that it does happen.

Another attachment to our letter consists of copies of some webpage where one can get fake IDs. They are pretty darned good, and it takes quite a bit of looking, listening, watching, and caring whether they are who they say they are.

The commercial chapels are hurting. I think that it is just human nature that, if you were not going to be able to perform a marriage or make money off something if you require certain things, you will be more lenient. We think that is a really bad idea.

The records that we create are permanent. We have to keep them forever, and people rely on the records forever. We have records dating back to 1861, and they have all this information on them. We keep track of it and safeguard it, but we also provide it when it is needed for legal purposes.

We think this bill is bad public policy. It is not really going to help government, because this is one of those things that government should still do.

As to the fiscal impact, we believe that, if we do need to do this, we should have it done by computer. It should be entered into the system. That way, we could assure that when the documents are issued they have unique numbering, and that we can properly track what happens. To do that, we believe the first year setup would cost about \$162,000. That is based on when we had to do our new setup in 2007. We just took those numbers, multiplied it by the five chapels to which we would have to supply the information.

If this bill goes through, and if it is really going to be that this body decides that chapels should issue marriage licenses, we think that not only should it just be the chapel, that we should have some oversight as to who within the chapel is issuing it. We think we should authorize marriage licensing agents, much like we authorize ministers to perform marriages. All of our clerks have background checks and criminal investigations done. We think we should be able to do that for whoever would be issuing the license on the other end.

We would also request that the counties not be asked to bear the fiscal impact and that the chapels that want to enter into this new business venture to do so at their own expense.

We would like to include some provisions for training and the posting of a personal bond of the agents we would be authorizing, and that we would be allowed to collect a fee for processing the application, training, and administration. We would like to be able to audit the chapel records and documents to make sure not only that the accounting is proper, but that the paperwork is proper. We think we should place limitations on what licenses wedding chapels can issue. Ms. Flint has offered not to issue in circumstances where the minor has an appointed guardian. We think that they should not issue to minors, period. It is just too important to make sure that the person in front of you is the parent, that he is who he says he is, and that he has the authority to allow this child to get married. Also, there is a provision in statute for one-signature licenses. That is if some person is unable to come to the office and get a license. Sometimes they include prisoners. We go through a lot of background work to ensure that they have the permission of the prison to get married and that they cannot get out. We go through individual scrutiny before we do that. We would not want anyone but the county clerk or a court to make that determination. Also, we have had instances where people are in the hospital, and one party is near death and cannot make it in. We do not do those as one-signature. We send a person to the hospital. We get both IDs. We make sure that second person is coherent and knows what he is doing, and then we issue there at the hospital for them.

There is also a provision in statute for a rejoinder license. If someone does not have evidence of his previous marriage, we can issue a rejoinder. We think that should be limited to the county clerks.

We would like to set limits on the identification that the chapels would accept, mainly so that they would not be confronted with the awkward things that we are confronted with all the time. Limit it to driver's license or a passport or something that is very easily identifiable and verifiable.

I am glad Ms. Flint addressed this. We would hope that the statute would provide that chapels issue to couples regardless whether or not they get married in their chapel.

I mentioned auditing the chapel practices and procedures. The bill indicates that the chapel would be guilty of a misdemeanor if the statute was not followed, but nothing tells us how we would fine or enforce any violation. We would appreciate provisions along those lines.

If chapels are to be marriage licensing agents and they can issue the license and perform ceremonies in one location, there is a current statutory provision that says if the county has a civil marriage commissioner, that function has to be performed in a building other than where the marriage licenses are issued. That is an additional expense to the county. We would request that we not have to provide that service in another building, but be able to offer it in the same building.

They did also testify that their average wedding has ten people. That may be true, but I submit to you that the people who are coming at the late-night hours do not have ten people with them. On the spur of the moment they come in, just the two of them.

Mr. Sherwood, you asked a question about logistics and how things are up here, and whether or not they are spread apart. We issue marriage licenses from the courthouse. The bulk of the chapels are within a couple of blocks of the courthouse, so it is not really a logistical problem; they are not coming from far away areas.

We respectfully request that you vote no on this bill. Thank you.

Chairman Horne:

Thank you, Ms. Parent. Did you put all of these remarks on the record during the Senate hearing?

Nancy Parent:

It is my recollection that, during the Senate hearing, we ran very short of time. This was the last bill to be heard; and I think between Clark County, Carson City, and Washoe County, we were allowed about seven minutes to testify. We each took a couple of minutes to try and address a few things. We tried in a very fast fashion to address all of these problems. Also, the bill was slightly different in the Senate in that it did provide for marriage licensing agents, and this bill as amended does not.

Chairman Horne:

Does that account for why the unsolicited fiscal note ([Exhibit E](#)) was not attached until after the hearing?

Nancy Parent:

Partly. The other reason is that we were adamantly opposed, and we were trying to defeat it.

Chairman Horne:

So, you were adamantly opposed, and you were trying to kill it with an unsolicited fiscal note. Is that correct?

Nancy Parent:

Yes, sir.

Chairman Horne:

Okay. Mr. Hansen.

Assemblyman Hansen:

Thank you, Mr. Chairman. We heard testimony that they have been doing this in Humboldt County. Is that true? And if it is, has there been an expansion of marriage fraud occurring because of that?

Nancy Parent:

The Humboldt County Clerk has an arrangement with the one chapel in the vicinity. It is actually a flower shop that, I believe, also performs marriages. I do not know whether they are having any marriage fraud. They certainly are not a hot spot for weddings that I am aware of.

Assemblyman Hansen:

I bring it up because if there is, in fact, a loophole in the law, and there are people who would want to take advantage of it, you would think there would be an influx of that type of activity there. If there is not any evidence of it, I do not see why we would not allow the chapels to do it here. If, in fact, there is a problem somewhere else, I would like to see the evidence of that. Thank you.

Chairman Horne:

Mr. Carrillo.

Assemblyman Carrillo:

Thank you, Mr. Chairman. Ms. Parent, thank you for your testimony.

When I came to Nevada in 1987, I was always under the impression that if you wanted to get married, you could just get in your car in whichever state, drive to Nevada, and get married. It does not matter what time it was. There was a movie made recently called "The Hangover," which gave precedent to that. The characters in the movie were out in a drunken madness, and one of them got married. The guy did not even realize it. I think that is the impression held by people from surrounding states. I am really quite shocked to learn that there was that much intensity of trying to control the people that want to get married.

To my colleague, in regards to illegals, I think people just want to have that connection. I have been married in the State of Nevada for 20 years. I think any opportunity to bring revenue, which we currently lack, to the state is setting a precedent. I am not saying government and businesses should always try to work together to try to bring that money to the state and help our revenue increase. But, as I said, this is an eye opener for me. I always thought that this is something that we just took for granted. Thank you for bringing this to my attention, but I am still looking at that revenue. Thank you.

Chairman Horne:

Mr. Brooks.

Assemblyman Brooks:

Ms. Parent, is there a special training process to determine whether you are dealing with fake identification?

Nancy Parent:

Yes, we have been trained in the last few months by Homeland Security officials.

Assemblyman Brooks:

Is there anything that would preclude these marriage facilities from getting that training?

Nancy Parent:

I understand that Homeland Security, at least at this point, is only offering it to government employees and law enforcement.

Assemblyman Brooks:

Would you be willing to share the training with the chapels if this bill were to pass?

Nancy Parent:

Some of it, but not all of it, because Homeland Security does not want some secrets about how it is accomplished divulged.

Assemblyman Brooks:

So, there is some kind of top-secret thing going on here.

Nancy Parent:

They were very cautious before they let us even come to the class. They made sure that when we notified other county clerks about it that only county clerk

and government employees went. I cannot speak for them, but I know that they did not want us spreading all the things that we learned.

Assemblyman Brooks:

We are at a time when businesses are struggling. Nevada is one of the premiere capitals of the world for marriage, so this is a big deal. I can imagine it being a big deal for a small business. If you cannot extend your hours to accommodate the chapels, certainly there is something we can do to accommodate the chapels. Do you have any ideas about what we can do if you are adamantly against chapels issuing licenses?

Nancy Parent:

The statute requires us to be open from 8:00 a.m. until midnight. As of July 1, we will be going back to that, and that is what we have been historically operating under.

Assemblyman Brooks:

Did you do that last year when they needed you, and they were not able to do a few marriages, I guess, because you were not open?

Nancy Parent:

We were authorized to reduce our hours by the Board of County Commissioners in response to the economic downturn in the county.

Assemblyman Brooks:

That sounds good, but these guys are in business to do marriages, and if they cannot do marriages, they go out of business. That does nothing for our local economy, and I ask that you consider that. Thank you.

Chairman Horne:

Mr. Ohrenschall.

Assemblyman Ohrenschall:

Thank you very much, Mr. Chairman. My question is for either of the witnesses, and it concerns the last section of the bill and the sunset. As I understand it, this will be a trial until next session. We could come back and see how it is working. I wonder why you are so adamantly opposed when it is just a trial period. We could see how it works. If there are problems, we could try to fix them next session. If it is a complete flop, we could repeal it or deny an extension. Why not see how this works until the next legislative session?

Alan Glover, Clerk/Recorder, Carson City:

Assemblyman Ohrenschall, the sunset is one of the redeeming values of this bill. One of our main points is that we probably will not see an improvement in the number of marriages when you come back in two years. In response to Mr. Brooks' question, I believe it was a business decision. We made similar decisions in Carson City on why we closed on Christmas Day and Thanksgiving. We sold no licenses. For several years, nobody came in. The point is, we are not sure that you are going to lose that much business.

Chairman Horne:

Mr. Glover, that is twice I have heard that. You are saying, as administrators, that you do not think they are going to get business if you are open during those hours, but that is not your call. They are the businesspeople. It is their business. They can say, "They are closed on Christmas, and we think we can make money then." What is it to you whether they actually do or not? You are making a judgment on somebody's business plan, and I think that is outside your purview. You are telling us they are not going to make money anyway.

Alan Glover:

It is also a business decision for us, because we want to make money. We want to sell licenses. I would like to go back to the days when we sold 10,000 licenses a year instead of the 900 or so we do today. That means money into the county. It means money that comes in for several different groups. But you come to a point: Does it pay to stay open?

Chairman Horne:

We are not saying we are going to force you to stay open 24 hours a day. You make a decision and say, "We cannot stay open that way. We would not make money. We have to pay our employees, et cetera." But, during the time you are closed, they believe they can make money. Is it your argument that the money that they make is money the county does not make because they are selling a license while you are closed?

Alan Glover:

Under the bill, I do not know whether it affects Because Washoe County will now have to stay open from 8 a.m. to midnight, so that should hopefully solve that problem.

Mr. Chairman, I know you are running short on time. There are a couple of points I want to make. The clerks in the state have been in the loop with all of this, and they support the position of Washoe County on this. We think maybe the only county that this bill truly might affect is Elko County, because they are

the only ones who have a chapel up there that has been in business for five years.

The Humboldt County situation is truly different, in that the lady who runs the flower shop and sells licenses is a deputy clerk for the county. She was sworn in as special clerk, and that can be revoked at any time.

With the El Dorado County south shore issue, they are way off, too. A few years ago, they were doing something like 10,000 licenses a year. They are only doing 3,000 now. It is dropping off. Our point is that we are the ones who have to make all the corrections when mistakes are made on a document. It gets very cumbersome, and it really injures people when they cannot get Social Security or change their driver's license or something like that. We appreciate the committee considering our point of view.

Chairman Horne:

Thank you, Mr. Glover. Are there any questions for Mr. Glover? I see none. Is there anyone else here wishing to testify in opposition to S.B. 381 (R1)? If so, come to the table now if you have new information. I see none here or in Las Vegas.

We will move to the neutral position. Is anyone here neutral? Please proceed.

Wes Henderson, Deputy Director, Nevada Association of Counties:

We are neutral on S.B. 381 (R1), but we have submitted what we hope is a minor amendment to the bill ([Exhibit F](#)). We have submitted it to NELIS.

Currently, in NRS 122.061, only in counties whose populations are 100,000 or more are the hours of operation for the clerk's office set. In the other 15 counties, the hours are set by the county commissioners. Our amendment would keep this consistent by changing section 8.5 of the bill to read, "In each county whose population is 100,000 or more but less than 700,000 . . . ," which would exclude the remainder of the counties. Looking over the bill, we believe that same language would have to be put into section 11 as well. I would be happy to answer any questions.

Chairman Horne:

Have you presented this amendment to the sponsor of the bill?

Wes Henderson:

We did drop off a copy in his office last Friday afternoon. I have not had a chance to talk with him yet.

Chairman Horne:

Are there any questions? I see none.

Bjorn Selinder, Consultant, representing Churchill, Eureka, and Elko Counties:

I am speaking primarily on behalf of Elko County this morning. We are neutral on the bill. However, we are in support of the Nevada Association of Counties' proposed amendment ([Exhibit F](#)), which would confirm the applicability of the bill to existing statutes. I will take any questions. Thank you very much.

Chairman Horne:

Are there any questions? I see none. Thank you, gentlemen. Is there anyone else in the neutral position? Seeing none, I will close the hearing on the bill. We will bring it back to Committee. That will conclude our work for hearings today.

We will now move into work session mode. As a reminder, work session is to process bills that have already been heard in Committee. It is not an opportunity to reargue for or against a bill. You may be called up for clarification on a bill, but that is it. As I stated at the opening of the hearing today, there are approximately 15 bills on the work session document. However, S.B. 24 (R1), S.B. 42 (R1), S.B. 47, and S.B. 91 are still on hold. If you came in after I mentioned that at the beginning of the hearing, I apologize.

We will begin with Senate Bill 6 (1st Reprint). Mr. Ziegler.

Senate Bill 6 (1st Reprint): Authorizes the electronic reproduction of the seal of a court. (BDR 1-324)

Dave Ziegler, Committee Policy Analyst:

Thank you, Mr. Chairman. Members, standard documents are available on the Nevada Electronic Legislative Information System (NELIS). They include both individual sheets for all the bills and amendments plus a compiled document, including all the sheets. Audience, there are paper copies available from our Committee Assistant, Michael Smith.

The first bill is S.B. 6 (R1).

[Mr. Ziegler read from the work session document ([Exhibit G](#)).]

Chairman Horne:

Thank you, Mr. Ziegler. Mr. McCormick, thank you for the clarification. I appreciate you following up and getting some additional work. Does anyone

have any questions for Mr. McCormick? I thought they would, but they do not. I would entertain a motion.

ASSEMBLYMAN FRIERSON MOVED TO DO PASS
SENATE BILL 6 (1st REPRINT).

ASSEMBLYMAN CARRILLO SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN HAMMOND AND KITE
VOTED NO. ASSEMBLYMEN OHRENSCHALL AND SEGERBLOM
WERE ABSENT FOR THE VOTE.)

The next bill is Senate Bill 15 (1st Reprint).

Senate Bill 15 (1st Reprint): Requires the Department of Motor Vehicles to cancel the driver's license of a person convicted of driving under the influence of intoxicating liquor or a controlled substance under certain circumstances. (BDR 43-487)

Dave Ziegler, Committee Policy Analyst:

[Mr. Ziegler read from the work session document ([Exhibit H](#)).]

Chairman Horne:

Thank you. Does anyone have any questions on this bill? It was a little confusing with the \$35 assessment, its purpose, and the suspension or revocation of driver's licenses. Is everyone okay with it now? Seeing no questions, I would entertain a motion.

ASSEMBLYMAN DALY MOVED TO DO PASS
SENATE BILL 15 (1st REPRINT).

ASSEMBLYMAN FRIERSON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN SEGERBLOM AND
OHRENSCHALL WERE ABSENT FOR THE VOTE.)

Mr. Daly, you can handle that on the floor. Also, Mr. Carrillo, if you could handle Senate Bill 6 (R1) on the floor, I would appreciate it.

We will skip around a little and go to Senate Bill 55.

Senate Bill 55: Revises provisions governing crimes against older persons.
(BDR 18-204)

Dave Ziegler, Committee Policy Analyst:

Thank you, Mr. Chairman. This bill was presented by Assistant Attorney General Keith Munro and Deputy Attorney General Heather Procter.

[Mr. Ziegler read from the work session document ([Exhibit I](#)).]

Chairman Horne:

Thank you, Mr. Ziegler. Everyone has the amendment. Mr. Anthony, will you tell the Committee what this amendment does to the current bill?

Nick Anthony, Committee Counsel:

Thank you, Mr. Chairman. I believe the intent of the amendment is to limit the circumstances to only those three additional crimes. Currently, the bill allows the Attorney General to seek an additional civil action or recover a civil penalty against anyone convicted of any portion of subsection 1 of *Nevada Revised Statutes* (NRS) 193.167. This amendment would just limit it to those particular three paragraphs of NRS 193.167 identified in the amendment.

Chairman Horne:

Thank you, Mr. Anthony. Mr. Kandt, I appreciate you agreeing to narrow down that focus. Are there any questions on S.B. 55 and its proposed amendment? Is everyone okay?

ASSEMBLYMAN SEGERBLOM MOVED TO AMEND AND DO PASS
SENATE BILL 55.

ASSEMBLYMAN SHERWOOD SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

We will give that to Mr. Sherwood to present on the floor. Let us go to Senate Bill 30 (1st Reprint).

Senate Bill 30 (1st Reprint): Makes various changes relating to common-interest communities. (BDR 10-477)

Dave Ziegler, Committee Policy Analyst:

Thank you, Mr. Chairman.

[Mr. Ziegler read from the work session document ([Exhibit J](#)).]

Members, the intent of the amendment proposed by the Subcommittee on Judiciary is to make these provisions related to the charge for copies consistent with other bills we have processed this session. Thank you, Mr. Chairman.

Chairman Horne:

Thank you, Mr. Ziegler. Mr. Ohrenschall, this is out of your Subcommittee.

Assemblyman Ohrenschall:

Yes, thank you very much, Mr. Chairman. We heard a lot of testimony on the bill. Mr. Carrillo, Mr. McArthur, and I discussed it; and I believe the amendment came from a proposal from Assemblyman McArthur, trying to have some consistency with this and the rest of *Nevada Revised Statutes* (NRS) Chapter 116 and to make sure that, if someone tries to get those records via email, he would not be charged.

Chairman Horne:

Are there any questions on S.B. 30 (R1) and the proposed amendment? I see none. I will entertain a motion.

ASSEMBLYMAN FRIERSON MOVED TO AMEND AND DO PASS
SENATE BILL 30 (1st REPRINT).

ASSEMBLYWOMAN DIAZ SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Mr. Ohrenschall can handle that on the floor. The next bill is Senate Bill 66 (1st Reprint). Mr. Ziegler.

[Senate Bill 66 \(1st Reprint\)](#): Revises provisions relating to multidisciplinary teams to review the deaths of victims of crimes that constitute domestic violence. (BDR 18-268)

Dave Ziegler, Committee Policy Analyst:

Senate Bill 66 (R1) was presented in this Committee on April 28 by Mr. Kandt and Ms. Prentice from the Office of the Attorney General.

[Mr. Ziegler read from the work session document ([Exhibit K](#)).]

Chairman Horne:

Thank you, Mr. Ziegler. Are there any questions on S.B. 66 (R1)? Mr. Hammond.

Assemblyman Hammond:

I believe that the language in this was permissive in that it said that these task forces would be put together as requested. Is that correct?

Chairman Horne:

Mr. Kandt.

Brett Kandt, Special Deputy Attorney General, Office of the Attorney General:

You are correct, Assemblyman Hammond. This bill, as written, would simply grant the Attorney General's Office permissive discretionary authority to form a team. The intent is that if a local government, utilizing its existing statutory authority, forms a team, the Attorney General would not, then, look at forming a team that would overlap in the same types of reviews in that jurisdiction. However, if a local government requested the assistance of the Attorney General from a resource standpoint, that would give the Attorney General the authority to form a team to assist that jurisdiction. It would also allow the Attorney General to focus on this type of fatality review on a statewide platform. In other words, it would take a macro view of the issue throughout the state and compile data on the problem of domestic violence fatalities throughout the state.

Chairman Horne:

Are there any other questions? Mr. McArthur.

Assemblyman McArthur:

Who constitutes these teams, and why is there no fiscal note if we are creating some teams?

Brett Kandt:

I do not have the bill in front of me, but the substance of the teams would be the agencies necessary to review and bring their perspective to bear in terms of law enforcement, prosecution, social service agencies, and the coroner, if necessary. The reason there is not a fiscal note is because the teams would only be formed and operate utilizing existing resources.

Assemblyman McArthur:

Thank you.

Chairman Horne:

Is there anything else? I see none. Thank you, Mr. Kandt. I will entertain a motion.

ASSEMBLYWOMAN DIAZ MOVED TO DO PASS
SENATE BILL 66 (1st REPRINT).

ASSEMBLYMAN FRIERSON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN HAMMOND AND
SHERWOOD VOTED NO.)

The next bill is Senate Bill 88 (1st Reprint).

[Senate Bill 88 \(1st Reprint\)](#): Enacts the Uniform Real Property Transfer on
Death Act. (BDR 10-59)

Dave Ziegler, Committee Policy Analyst:

Thank you, Mr. Chairman. Senate Bill 88 (1st Reprint) was presented by Lora
Myles of the Carson and Rural Elder (CARE) law program.

[Mr. Ziegler read from the work session document ([Exhibit L](#)).]

Chairman Horne:

Thank you, Mr. Ziegler. Mr. Segerblom, is this a good bill?

Assemblyman Segerblom:

Actually, it is too complicated for me to understand, but I have been told it is
very good.

Chairman Horne:

A bill too complicated to understand is a good bill. Are there any questions on
S.B. 88 (R1)? Mr. Ohrenschall.

Assemblyman Ohrenschall:

It is not a question. I just remember Ms. Myles' testimony. She said that this
would, I think, lead to fewer problems with the probate system because there
would be clear documentation on how someone wants the real property to be
disposed of upon their death; and this would lead to fewer contested wills
and such.

Chairman Horne:

Mr. Segerblom.

Assemblyman Segerblom:

Without being facetious, it actually is a very positive bill, because it avoids a lot
of the things for which we would have to hire a lawyer.

ASSEMBLYMAN SEGERBLOM MOVED TO DO PASS
SENATE BILL 88 (1st REPRINT).

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Let us give that to Mr. Hansen for a floor assignment. I will assign S.B. 66 (R1) to Mr. Brooks.

Senate Bill 89 (1st Reprint) is next.

Senate Bill 89 (1st Reprint): Revises provisions governing audits and reviews of financial statements of common-interest communities. (BDR 10-595)

Dave Ziegler, Committee Policy Analyst:

Thank you, Mr. Chairman. This bill was heard in Subcommittee on May 6.

[Mr. Ziegler read from the work session document ([Exhibit M](#)).]

Chairman Horne:

Thank you, Mr. Ziegler. Mr. Ohrenschall, do you want to enlighten us on S.B. 89 (R1) and the rationale behind allowing this exclusion?

Assemblyman Ohrenschall:

I would be happy to, Mr. Chairman. Senator McGinness appeared before the Subcommittee, and he told us this was a bill that arose from a very small homeowners' association (HOA) in his district where they were finding these requirements not only onerous, but redundant because their budgets are so small.

I had expressed some concerns during Subcommittee about whether this would lead to the potential danger of money going astray and improper auditing. The feeling of the Subcommittee members was that when you have a common-interest community (CIC) whose budget is that small, we would be causing more harm than good by holding them to this requirement and that the bill should be processed.

Chairman Horne:

Thank you, Mr. Ohrenschall. Are there any questions on S.B. 89 (R1)? I see none. I would entertain a motion.

ASSEMBLYMAN OHRENSCHALL MOVED TO DO PASS
SENATE BILL 89 (1st REPRINT).

ASSEMBLYMAN SEGERBLOM SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

I will give that to Assemblyman Hammond. Senate Bill 101 (1st Reprint) is next.

[Senate Bill 101 \(1st Reprint\)](#): Revises certain provisions relating to certificates of marriage and the solemnization of marriage. (BDR 11-635)

Dave Ziegler, Committee Policy Analyst:
Thank you, Mr. Chairman.

[Mr. Ziegler read from the work session document ([Exhibit N](#)).]

There are two amendments that have been submitted. One is by Ms. Flint and Mr. Lichtenstein of the American Civil Liberties Union (ACLU). It is labeled with their names. I believe it is the first one following this sheet. There is another amendment from Assemblyman Segerblom.

Chairman Horne:

Thank you, Mr. Ziegler. On the Segerblom amendment, which asks for notaries to solemnize marriages, I cannot get there, Mr. Segerblom. We just might as well go to common-law marriages where people can say, "I think you are my wife." "I think you are my husband. We are married now."

Assemblyman Segerblom:

If I could briefly explain, right now, you can be married by a judge or a minister. That is in state law. The ACLU has sued the Clark County Clerk, saying that it is unconstitutional to require that only ministers are allowed to marry people under our statutes. The ACLU has indicated that, because you cannot have religious preference, there has to be some provision that allows people who are not religious the authority to marry people.

I have worked with the Clark County Clerk, the Nevada Municipal Clerks' Association, the ACLU, and the wedding chapels to arrive at another method whereby people can be married in nonreligious services. If this were adopted, then the lawsuit currently pending in Clark County would be dismissed by the ACLU. There is someone here from the Clerk's Office to testify that they support this amendment.

Chairman Horne:

Clerks are not going to support this amendment because they have not been vetted through national security. I could go downstairs into the Legal Division. Karen Bondi is a notary there, and I could get married.

Assemblyman Segerblom:

You could also go to the Internet, get a form that says you are a member of one of those churches on the Internet, and take it down to the courthouse. The clerk would look at it and confirm you are a minister. You could then marry couples. This is no different. The key is that the marriage license has to be vetted through the system. The people are generally entitled to be married, but at the end of the day whoever performs the service, whether it is you or the person downstairs or the person who was ordained on the Internet, it does not really matter. If you could just limit to people who are ordained on the Internet because they say they believe in God, that is a violation of the *United States Constitution*, 1st Amendment. That is what the lawsuit is based on; and, realistically, it has a good chance of succeeding.

In Florida, notaries public are allowed to marry people, so this is not unique to Nevada. With notaries public, at least there is a process whereby they have to file forms with the state so that there is some limitation on who we are talking about here.

Chairman Horne:

The amendment offered by Mr. Lichtenstein and Ms. Flint uses the term "non theistic society or organization." How does that not cover what you mentioned?

Assemblyman Segerblom:

The clerks prefer the notary public because there is some control over that. Non theistic societies would be another way to go about this. The problem is that current statute requires some religious affiliation, and that is a violation of the *U.S. Constitution*, 1st Amendment.

Chairman Horne:

Except for judges.

Assemblyman Segerblom:

That is correct. Again, this is not my idea. This was done to specifically address this issue with a lawsuit in Clark County.

Chairman Horne:

Mr. Sherwood.

Assemblyman Sherwood:

I think you cleared this up for me, Mr. Chairman, but if I do not want to be married by a God-affiliated organization, I can still do that, right? I can go to a judge, and there is a separation between the clerk and the judge. In fact, it has to be a separate building right now. So, if I am an atheist, I can go to a boat captain or a judge. Is that correct? If that is the way it is now, I think it is a redundant amendment.

Chairman Horne:

Are there any other comments or suggestions? Mr. Frierson.

Assemblyman Frierson:

The proposed amendment (beginning on page 2 of [Exhibit N](#)) seems to be somewhat repetitive, in that it refers to a "religious organization" and a "religious or non theistic society or organization" in the same description. It seems to me we could get rid of the "religious organization" verbiage, since the language that they add covers it, if we ultimately go with that amendment. It is actually inconsistent. I think it is worded slightly differently later in the same amendment. In section 1, it is one way; in section 4, it is another. They are both on the same page. We should make sure it is consistent one way or the other.

Chairman Horne:

Yes, I agree, and so does Mr. Anthony. Would anybody care to make a motion on this?

ASSEMBLYMAN HAMMOND MOVED TO DO PASS
SENATE BILL 101 (1st REPRINT).

ASSEMBLYMAN SHERWOOD SECONDED THE MOTION.

Is there discussion on the motion? Mr. Sherwood.

Assemblyman Sherwood:

Thank you, Mr. Chairman. If we are worried about whether somebody will bring a lawsuit if we do not amend a bill or vote a certain way, we would never get anything passed. This was a great bill. Why derail it with somebody's very narrow agenda for a lawsuit? I hope that we could not jeopardize the bill by entertaining niche lawsuits.

Chairman Horne:

Mr. Ohrenschall.

Assemblyman Ohrenschall:

Mr. Chairman, with all due respect for my colleagues, Mr. Hammond and Mr. Brower, I wonder whether you might accept an alternative motion that would include one of the amendments.

Chairman Horne:

There is currently a motion being considered.

Assemblyman Ohrenschall:

Okay, thank you.

Chairman Horne:

Mr. Segerblom.

Assemblyman Segerblom:

To clarify, it is not that we are afraid of a lawsuit; it is that there is a lawsuit. It is already pending. Everyone knows that the lawsuit is going to prevail, so the question is whether we can address the issue the lawsuit raises, which is that our current law violates *the U.S. Constitution*, 1st Amendment. If we come up with some format where, rather than just have anybody off the street, you want to have some type of limitation on who is authorized to provide these nonreligious ceremonies. The clerks suggested the notaries public; that was not my idea. They felt that that provided some limitation that they could deal with.

Chairman Horne:

The problem I have is that I see a future where the wedding chapels will say that they are being driven out of business by somebody who advertises as a notary and will marry you for a fraction of the cost because their overhead is going to be so low. The notary could charge perhaps \$20 and make a profit. I do not know if that is the solution. Mr. Frierson.

Assemblyman Frierson:

Thank you, Mr. Chairman. I share the same concerns. On the one hand, there is a lawsuit; and I do not think that we have to reply to every lawsuit in statute, but I share some of the concerns that I think gave rise to the lawsuit. However, limiting it to simply a notary takes it in a different direction. I think the first amendment accomplishes the same goal as the second. So, I do not think I could support passing the bill as is, but I would certainly support, at the very least, the first amendment if that becomes an issue.

Chairman Horne:

Mr. Daly.

Assemblyman Daly:

Thank you, Mr. Chairman. I am not so sure I can get behind the notary thing, either. When I look at the language in the first amendment which reads "non theistic society or organization," I am thinking people at the Rotary Club can marry you. People at the labor union could marry you. I do not want any part of that. I think we should let the lawsuit go forward and settle itself, because I do not know whether we will get it right, trying to fix it here. Thank you.

Chairman Horne:

Are there any other comments? Okay, we have a motion to do pass without the amendments currently on the table.

THE MOTION FAILED. (ASSEMBLYMEN BROOKS, CARRILLO, DONDERO LOOP, FRIERSON, OHRENSCHALL, SEGERBLOM, AND HORNE VOTED NO.)

The bill either dies, or I will entertain another motion. Did you have a motion, Mr. Ohrenschall?

Assemblyman Ohrenschall:

I did, Mr. Chairman. I move we amend and do pass the measure with the amendment proposed by the ACLU.

ASSEMBLYMAN OHRENSCHALL MOVED TO AMEND AND DO PASS SENATE BILL 101 (1st REPRINT).

ASSEMBLYMAN SEGERBLOM SECONDED THE MOTION.

Chairman Horne:

Is there discussion on the motion? Mr. Hansen.

Assemblyman Hansen:

Thank you, Mr. Chairman. I think we may want to get some clarifying information from the ACLU.

Chairman Horne:

Ms. Gasca, would you care to comment?

Rebecca Gasca, Legislative and Policy Director, American Civil Liberties Union of Nevada:

I think there is a little bit of a misunderstanding. It is important that the Committee know that Allen Lichtenstein's name should not have been on the amendment put forward by Margaret Flint. We discussed the notary issue with

the clerks. We were not the genesis of this amendment at all. I certainly appreciate all the work Assemblyman Segerblom has put into the amendment he has offered. I think it addresses many of the needs the clerks have, and it certainly would, we believe, address our issue in our current challenge that has already been filed and is moving forward.

Chairman Horne:

How did Mr. Lichtenstein's name get on it?

Rebecca Gasca:

Allen Lichtenstein is our general counsel. He conversed with Ms. Flint over the course of a few weeks. It was an idea that was thrown back and forth. The points made by Assemblyman Daly were issues enough to rise up; and from our perspective, notaries would be better suited to perform this function for two reasons. First, they are already licensed by the state.

Chairman Horne:

We are not going down that notary lane, so . . .

Rebecca Gasca:

In order to address Mr. Daly's concern, because "non theistic" is not defined it could open up to a host of organizations that would be able to file. If that is the will of the Committee, that is fine. I just wanted to make clear that that was merely discussed between us and Ms. Flint, and it was not a formal amendment that the ACLU was interested in endorsing. Thank you.

Chairman Horne:

Thank you. Mr. Sherwood.

Assemblyman Sherwood:

The motion we have is to amend and do pass with the amendment that has Mr. Lichtenstein's name but is not really his. I wonder whether that is still a friendly amendment. Does Ms. Flint want the Rotary, the PTA, or whomever to be allowed to solemnize marriages?

Chairman Horne:

Her name is on the amendment, too. She is not disavowing the amendment, are you, Ms. Flint? You can nod from there. She is disavowing the amendment.

Assemblyman Sherwood:

This was my fear. We had something, and then we all read our emails and freaked out. Are we talking about the first amendment that would allow any

organization that is a non theistic society to do marriages on a bill that was just supposed to say this is not a ceremonial rite? Anybody who has a club can marry people with the amendment we are talking about.

Chairman Horne:

Ms. Diaz.

Assemblywoman Diaz:

Thank you, Mr. Chairman. I am still not fairly certain that is the intent behind the language. Could Ms. Gasca return to the witness table and tell me what is meant by "non theistic society?" I think we might be going out on a limb here in saying that Rotary Clubs are going to be marrying. I do not think that is the intent behind it or what is even being debated in court.

Rebecca Gasca:

Our lawsuit was filed a few weeks ago. There has been some media coverage. I am happy to discuss it at length with the Committee. Our intent was to make it clear that there is no religious qualification for a person who does not otherwise hold some sort of official office to perform or solemnize a marriage and to keep out the religious tenets of that solemnization.

Certainly, a person who is the head of a non theistic organization or a notary public would be good qualifiers. We understand there could be an apprehension to open it that broadly; and, because notaries already go through background checks and have obligations to the state, we thought that that would be a better means. I think it is a policy decision of the Committee in establishing the legislative intent that you would like to have on the record with respect to who could perform that function outside the scope currently allowed by state law.

Not only does Florida allow this, but there are several others. It could be a fairly simple fix for the Committee to consider.

Chairman Horne:

I am not going there. Mr. Hansen.

Assemblyman Hansen:

Thank you, Mr. Chairman. I think this amendment goes way too far. My daughter is a notary public, and the idea that she is going to be marrying people is just improper. I see the direction they are trying to go, but we have to clean this up a lot. She took a one-day class, and now she can legally solemnize marriages if we pass this?

Rebecca Gasca:

There seems to be a misunderstanding with Mr. Segerblom's amendment. I do not think it would be an automatic allowance for any notary public to marry people. The notaries public, if they desire to solemnize marriages, would still have to apply and be approved by the county clerks to perform that additional function. It is not just an open book that every notary can begin performing these functions, rather they could be also included in a group of people who would be allowed to do so. I think there is a clear distinction in the amendment.

Assemblyman Hansen:

Is that correct? I did not catch that. I got the impression that any notary could do it. That was the example the Chairman gave when he talked about somebody downstairs who could do that.

Chairman Horne:

That is the impression that I get because I do not think it is a huge leap from going down and being okayed by the clerk to solemnize marriages.

Assemblyman Hansen:

It seems like we are opening a Pandora's box of who can and who cannot. We do not want everybody in the state who happens to be a notary to run down to the clerk and get licenses. It seems we are broadening the scope way too much.

Chairman Horne:

Mr. Frierson.

Assemblyman Frierson:

I read the language the same as Ms. Gasca. I am looking at both amendments, in section 4, where it reads, "A county clerk may authorize" One amendment refers to the non theistic, and the other says, ". . . a temporary application to perform [it]." It seems to me that in either case the county clerk has to approve it. From what I recall, there are many people who get licenses off the Internet and perform marriages. I do not know whether this is that big of a deviation from what is already occurring, other than we are simply making sure that folks with different religious beliefs are able to access the same services.

I do not know that what we are talking about is that far beyond what is occurring right now, in that the county clerk is given the discretion. It says they "may" authorize. It does not require that they do so. I am more comfortable with this than some of the stuff I have seen on the Internet.

Chairman Horne:
Mr. Brooks.

Assemblyman Brooks:

Point of clarification to my colleague. Right now, if you want to become licensed to do this, you can actually go to the county clerk, and you do not necessarily have to be an ordained minister or judge. Is that what you are saying?

Chairman Horne:

Ms. Parent, can Mr. Brooks go to your office and get your permission to marry people?

Nancy Parent, Chief Deputy Clerk, Washoe County:

If Mr. Brooks is associated with a church or religious organization and he provides us with an ordination certificate and a certificate of good standing within that religious organization, yes, he can.

Chairman Horne:

If his religious organization is the Society of Atheists, could he still do that?

Nancy Parent:

Yes, sir.

Assemblyman Brooks:

That answers my question. Thank you.

Chairman Horne:

So, it must be a religious organization, but your religion could be atheism or agnosticism. People who do not believe in God get married every day.

I am going to put this back on the board. We are not going to move it today. We just spent a whole lot of time on it. That does not mean that it will not move, but it will not move today.

Let us go to the next bill, Senate Bill 222 (1st Reprint).

[Senate Bill 222 \(1st Reprint\)](#): Revises provisions concerning the lease or rental of a unit in a common-interest community. (BDR 10-294)

Dave Ziegler, Committee Policy Analyst:

Thank you, Mr. Chairman.

[Mr. Ziegler read from the work session document ([Exhibit O](#)).]

Chairman Horne:

Thank you. Mr. Ohrenschall.

Assemblyman Ohrenschall:

Thank you very much, Mr. Chairman. This is what I consider a very "pro-homeowner" piece of legislation. The Subcommittee took testimony. We worked with Senator Copening on this bill. From her testimony, it seems like most associations were already doing this, but there are a few that are not. I believe the changes are reasonable. I do not think anyone should be charged a fee to register if he is a renter and needs to provide a copy of his lease to the governing board of the common-interest community. Our Subcommittee voted unanimously to recommend this bill to the full Committee. It is a good piece of legislation. I would be happy to take any questions.

Chairman Horne:

Does anyone have any questions for Mr. Ohrenschall? Mr. Frierson.

Assemblyman Frierson:

Thank you, Mr. Chairman. I would like to comment that especially in our foreclosure crisis, giving homeowners some flexibility to make ends meet without unnecessary hurdles is something that is a good move towards protecting homeowners, so I am supporting the measure.

Chairman Horne:

Mr. Ohrenschall.

Assemblyman Ohrenschall:

Thank you, Mr. Chairman. Assemblyman Frierson made a good point. For many people, renting out their unit is potentially their only option to save it from foreclosure. I appreciate his comments.

Chairman Horne:

Does anyone else have any comments or questions? I would entertain a motion.

ASSEMBLYMAN FRIERSON MOVED TO DO PASS
SENATE BILL 222 (1st REPRINT).

ASSEMBLYMAN SEGERBLOM SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

We will give that one to Mr. McArthur. Our last bill for today will be Senate Bill 57 (1st Reprint).

Senate Bill 57 (1st Reprint): Expands the circumstances pursuant to which a court is authorized to issue certain warrants. (BDR 11-289)

Dave Ziegler, Committee Policy Analyst:

Thank you, Mr. Chairman. Senate Bill was presented in this Committee on April 27 by Mr. Kandt and Mr. Schulze of the Office of the Attorney General.

[Mr. Ziegler read from the work session document ([Exhibit P](#)).]

The bill authorizes the court to supplement a petition with the sworn testimony of the petitioner. Mr. Chairman, in the interest of time, it may be wise to skip the rest of the description because there is an amendment, presented by Mr. Kandt on May 9, which is a substantial modification to the bill. That amendment is attached. Thank you, Mr. Chairman.

Chairman Horne:

Thank you, Mr. Ziegler. Mr. Kandt, do you want to walk us through the amendment?

Brett Kandt, Special Deputy Attorney General, Office of the Attorney General:

I would like to start my comments by explaining that the proposed amendment would leave the provisions of the Uniform Child Custody Jurisdiction and Enforcement Act untouched. The bill in its current form would make amendments to that Act. The proposed amendment, instead, would leave that Act untouched and grant the Attorney General's Office a new remedy under *Nevada Revised Statutes* (NRS) Chapter 432. It would be an enforcement tool that would allow our office, consistent with its statutory responsibilities with regard to missing and exploited children, to apply to the court for a warrant, authorizing law enforcement to recover and take physical custody of an abducted child.

Chairman Horne:

Mr. Kandt, this would basically allow the Attorney General to choose which remedy to adopt. In essence, the same concerns are still there, especially if you put in another remedy, and then the Act is no longer being followed because you are using a separate remedy. Do you see what I am saying?

Brett Kandt:

Existing Nevada law, with regard to the Act, makes it clear that those remedies are cumulative to other remedies; and so this would authorize us, pursuant to a

completely different chapter in NRS, to seek a warrant for the recovery of an abducted child. That warrant process would be consistent with all due process and the requirements and protections provided by *the U.S. Constitution*, 4th Amendment.

Chairman Horne:

I do not know if you answered my question.

Brett Kandt:

I apologize, Mr. Chairman. Maybe Mr. Munro can address it.

Keith Munro, Assistant Attorney General, Office of the Attorney General:

The Act applies to a lot of different parties in a private litigation. It allows the seeking of a warrant on something other than probable cause. When law enforcement officers start seeking warrants based on things other than probable cause, they get very nervous. It is not our intent to interfere with the Act and how it affects private litigants. However, as it affects law enforcement officers who are exercising a warrant on something other than probable cause, we thought it was prudent to create a parallel remedy so law enforcement has some comfort in carrying out its duties.

Chairman Horne:

Mr. Hammond.

Assemblyman Hammond:

I will quickly sum up my recollection of this. Although it is good as a judge to be able to get more information about a certain case, I believe everybody is going to be armed with more information about the previous case and how it was handled. The crux of my problem with this, which was surmised by the opposition, is that there would be more cases. There would be more people with standing. There would be a whole lot of girlfriends and boyfriends involved in these problems.

This is the first time I have looked at the amendment. I really have not had time to look it over to see whether those original problems have been resolved through this amendment. I would like to have a little bit more time to look at that, if that is the case.

Brett Kandt:

We did take that concern into account. This amendment would completely address that concern. The existing Act would remain untouched. This authority we are seeking instead would only authorize our office to apply for such a warrant. The issue of expanding the standing to other parties is now

completely off the table. This would only authorize our office, through our Children's Advocate, to apply for such a warrant.

Chairman Horne:

Are there any other questions or concerns? This comfort level you are seeking for law enforcement is somewhat a hang-up for me, in that I believe the scenario was law enforcement would come to a home, seeking a child per a court order. If the person at the home says the child is not here, law enforcement does not have a warrant to enter that house and look for that child. It is a violation of the the *U.S. Constitution*, 4th Amendment because it is still a search. However, let us say law enforcement has an order to bring in a child. The officer acts on that, goes into the home without the person's permission, finds the child, and takes the child as was instructed in the order. Where does the 4th Amendment complaint come in if the order has been fulfilled and the person in the home complains that the search was illegal? That person is not necessarily subject to law enforcement at that time or subsequent prosecution. The order has been fulfilled; and from what I understand, that is what law enforcement is doing anyway. I am a little confused on what comfort level you are trying to obtain.

Keith Munro:

If you go to the words of our *United States Constitution* and look at the document, it says, "no search or seizure without probable cause." You need a warrant. We have a law on the books that has law enforcement acting in a way other than what the *U.S. Constitution* commands. We are not seeking to change that policy. I think we have resolved all the concerns of the opposition, but we want to make sure the words in the *U.S. Constitution* are fulfilled, and we are creating a process where we have a mechanism that, in the event a case comes up, there is a mechanism in place where a state officer has the ability to get a warrant, which must be based on probable cause. That is it.

Chairman Horne:

In the event that a case comes up?

Keith Munro:

There are starting to be cases in some other jurisdictions. We have not had one here in Nevada yet, but part of our role in the Attorney General's Office is to survey the legal landscape and find holes in the law. We recognize this body has passed the Uniform Child Custody Jurisdiction and Enforcement Act. We are not seeking to change that. We are seeking to make sure there is a mechanism in place in case issues arise with respect to the Act, and that we have a process in place that is clear-cut and going off the words of the *Constitution of the United States*.

Chairman Horne:

Mr. Munro, I need some specific information on the other jurisdictions that are experiencing these new suits and the facts surrounding them. I am not feeling it.

Keith Munro:

We would be happy to get that information for you. However, I will give you this scenario: If law enforcement came here seeking the authority to conduct searches and seizures pursuant to a standard other than probable cause, it would never pass. It would not see the light of day, because it is bedrock that if you are going to have a search and seizure in this state or country, it must be based on probable cause and authorized by a warrant issued by a neutral magistrate.

Chairman Horne:

But you are telling me that currently when family court judges issue an order to bring a child before them, it is without probable cause. When we get down to the meat and potatoes of it, that is what you are saying to me. You are saying that the current orders that are being issued are being issued without probable cause, and I am having difficulty with that, if that is indeed what is happening.

Keith Munro:

I understand when you say you are having difficulty, but those are the words in the statutes passed by this body. I am sorry that you are having difficulty, but I am going based on the words of the law passed by this body.

Chairman Horne:

Mr. Frierson.

Assemblyman Frierson:

This is essentially a whole new bill. This is not the original bill. There has not been a hearing on this new language. You are saying out with the old bill, and here we have a new bill. What is it that we are trying to accomplish in this new bill that we are unable to accomplish right now?

Keith Munro:

I would disagree that it is a whole new bill. I think it changes where the guts of the old bill are. The old bill affected standing, and we have changed that. As far as the authority to seek a warrant and what that must be based on, that is the guts of the bill, and that has not changed. There were issues raised about standing, so we made it to provide standing for the Director of the Office of the Advocate for Missing or Exploited Children, but the standard that if you are going to seek a warrant, it must be based on probable cause is still in place.

Assemblyman Frierson:

Coming from someone who has to read the bills line by line, it is a new bill. However, I think we are trying to say that, originally, anybody could bring a claim. That was a concern, so we changed that to say, no, the Children's Advocate brings the claim. The rest of it is similar as far as the information that has to go to the court and the information that the court has to consider in making its determination.

The Children's Advocate does not just do this out of thin air; somebody comes to the Children's Advocate with claims, so we take that out of the mix. There is still the potential for anybody to make an allegation to the Children's Advocate, who would then have to determine whether or not to bring that to the court's attention.

If somebody believes that a child is either endangered or abducted or there has been some type of movement of a child improperly, what are we unable to do now that this would allow us to do?

Keith Munro:

This bill would allow the Children's Advocate in this state to go to court and seek a warrant based on probable cause. As of now, he is granted the authority by the Uniform Act, which allows him to proceed based on a standard other than probable cause. He, we, and law enforcement have concerns about that.

As for this being a whole new bill, we presented it in the Senate, and we spoke to everyone who had concerns about it there. We had all their concerns resolved. I believe it passed unanimously out of the Senate. When it was heard in the Assembly, there were new concerns raised. We listened to those concerns, and that is why we have this new form of the bill where we have only the Children's Advocate having the authority to seek a warrant based on probable cause.

Assemblyman Frierson:

If this bill is trying to codify a probable cause standard, what is the articulated standard right now?

Keith Munro:

The articulated standard in the Uniform Act is "best interest of the child."

Chairman Horne:

Ms. Dondero Loop.

Assemblywoman Dondero Loop:

One of you stated that the opposition had no problem with the amendment. I would like to hear that from the opposition.

Keith Munro:

If the Chairman is willing, that would be great.

Chairman Horne:

Ms. Hart.

Nancy Hart, representing the Nevada Network Against Domestic Violence:

Good morning. We agreed to be neutral on the language within the amendment, but we have increasing concerns about the presentation of this amendment. In a nutshell, we have a major difference of opinion about the current domestic relations laws. We do not believe that they are constitutionally infirm. We also believe that the standard of proof, while it is framed as "best interest of the child," is not really the standard of proof. That is the proof you are looking for, but the standard in a family law case relies on a preponderance of evidence. Without getting into a lot of minutia, the standard of proof for preponderance of evidence is a higher standard of proof than a probable cause standard of proof.

The presentation of the amendment has raised some concerns for us because we do have a significant difference of opinion about the constitutionality and the functionality of the current domestic relations laws. We fully supported the idea of a different section because, as Mr. Kandt said, they were going to leave untouched NRS Chapters 125 and Chapters 125A through 125D. We do not want the record to reflect that we agree that those statutes are infirm. We think the standard of proof in those statutes is adequate. *Nevada Revised Statutes* Chapters 125A and 125D are the Uniform Child Custody Jurisdiction and Enforcement Act and the Uniform Child Abduction Prevention Act, respectively. Both provide specifically for a family court to enter a pick-up order that authorizes entry into the home to get the child. That would be based on a burden of proof of probable cause finding in the best interest of the child. We think those orders can be, and are, enforceable. We have learned from law enforcement that what it needs on the face of an order is the specific address and the specific authority to enter the address. That is what they look for. If such an order is entered by a family court judge, that would be enforced.

Chairman Horne:

Thank you, Ms. Hart. I do not see any questions. It is five minutes to noon, and we have floor at noon. Clearly, this bill is not ready to be moved, so I will pull it back for now.

Is there any more business to come before the Committee? Are there any comments? Tomorrow, I will not be here. Mr. Ohrenschall will conduct the hearing. Nothing can move without the Chairman being here, so do not get any fancy ideas. We are adjourned [at 11:56 a.m.].

RESPECTFULLY SUBMITTED:

Jeffrey Eck
Committee Secretary

APPROVED BY:

Assemblyman William C. Horne, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Judiciary

Date: May 16, 2011

Time of Meeting: 9:15 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 381 (R1)	C	Margaret Flint	Handout
S.B. 381 (R1)	D	Amy Harvey	Handout
S.B. 381 (R1)	E	Nancy Parent	Fiscal Note
S.B. 381 (R1)	F	Wes Henderson	Proposed Amendment
S.B. 6 (R1)	G	Dave Ziegler	Work Session Document
S.B. 15 (R1)	H	Dave Ziegler	Work Session Document
S.B. 55	I	Dave Ziegler	Work Session Document
S.B. 30 (R1)	J	Dave Ziegler	Work Session Document
S.B. 66 (R1)	K	Dave Ziegler	Work Session Document
S.B. 88 (R1)	L	Dave Ziegler	Work Session Document
S.B. 89 (R1)	M	Dave Ziegler	Work Session Document
S.B. 101 (R1)	N	Dave Ziegler	Work Session Document
S.B. 222 (R1)	O	Dave Ziegler	Work Session Document
S.B. 57 (R1)	P	Dave Ziegler	Work Session Document